



POLICE DEPARTMENT

January 13, 2009

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Konata Hood
Tax Registry No. 925471
90 Precinct
Disciplinary Case No. 82706/07

The above-named member of the Department appeared before me on September 10 and September 11, 2008,¹ charged with the following:

1. Said Police Officer Konata Hood, assigned to the 90 Precinct, while off-duty, on or about September 4, 2006, in Kings County, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer did fail to immediately identify himself as a Member of Service, when being addressed by a Sergeant of Police, in that said Police Officer, when approached by Sergeant Patrick Logan, who was on duty in uniform and dispersing a crowd during a police incident, did dispute the order to disperse, and while doing so did fail to identify himself as a member of service.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Police Officer Konata Hood, assigned to the 90 Precinct, while off-duty, on or about September 4, 2006, in Kings County, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer was discourteous to a New York City Sergeant Patrick Logan, in that said Police Officer, when approached by Sergeant Patrick Logan, who was on duty in uniform, and ordered by Sergeant Logan to leave the area, failed to immediately follow the order, stating that he would leave when he was, "damn good and ready," and did not immediately produce his identification, stating, "I'm not showing you shit."

¹ In a pretrial motion decision (attached to this decision as Appendix A), Deputy Commissioner Martin G. Karopkin ruled that these charges would be combined for trial with Disciplinary Case No. 82201/06, which involves charges brought against Police Officer Anthony Beaton, because both Respondent Hood and Respondent Beaton raised discrimination claims against Sergeant Patrick Logan, the Department's main witness in both cases, and because the charges against both Respondents involved interactions with Sergeant Logan which occurred on September 4, 2006. Although a joint trial was conducted, separate memoranda have been prepared because some of the witnesses who testified, and some of the documents offered into evidence, relate only to the charges against one of the two Respondents.

P.G. 203-09 PAGE 1, PARAGRAPH 2 – PUBLIC CONTACT

3. Said Police Officer Konata Hood, assigned to the 90 Precinct, on or about October 18, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer did fail to identify himself as a Member of Service, when being addressed by a Lieutenant, in that said Police Officer, when phoned by Lt. John Meier, in reference to a CCRB complaint filed by said Police Officer, did fail to identify himself as a Member of Service.

P.G. 203-10 PAGE 1, PARAGRAPH 5 – GENERAL REGULATIONS

4. Said Police Officer Konata Hood, assigned to the 90 Precinct, on or about October 18, 2006, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Police Officer was discourteous to New York City Lieutenant John Meier, in that said Police Officer, when phoned by Lt. Meier in reference to a CCRB complaint filed by said Police Officer, and after Lt. Meier identified himself by rank and requested an interview with said Police Officer regarding that complaint, did repeatedly question Lt. Meier's identity and the validity of his inquiry.

P.G. 203-09 PAGE 1, PARAGRAPH 2 – PUBLIC CONTACT

The Department was represented by Mark Berger Esq., Department Advocate's Office, and the Respondent was represented by Stephen Worth, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty of Specification No. 3. The Respondent is found Not Guilty of Specification Nos. 1, 2 and 4.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant Patrick Logan and Lieutenants John Meier and William Gough as witnesses.

Sergeant Patrick Logan

Sergeant Logan, who is assigned to the 67 Precinct, testified that on September 4, 2006, he was designated to supervise five police officers who were assigned to the West Indian Day Parade "jump up party" detail. At about 5:30 a.m., the detail responded to a noise complaint regarding a loud party inside a house. When they arrived at the location, he approached three men who were outside the house "on the west side of [REDACTED] about 50 feet off the corner of [REDACTED]." They were seated on motorcycles. Three women were standing next to them. The Respondent was one of the men.

Sergeant Logan told them, "Ladies and gentlemen, the party is over. It is time to go." Sergeant Logan, who was in uniform and had sergeant's stripes on his sleeve, testified that the Respondent said "something along the lines of" that, "I'll leave when I am damned good and ready." Sergeant Logan then repeated, "Ladies and gentlemen, the party is over. It is time to go." Sergeant Logan then "got closer" and as he passed the Respondent he made it a point to stop and say, "Ladies and gentlemen, let's go." In explaining this situation, Sergeant Logan stated that, "Motorcycles and girls are a problem at these parties. They are like bugs to light. Guys will stop and talk to a girl. The girl will stop at the motorcycles. You can eliminate one problem, you eliminate five." The Respondent said to Sergeant Logan, "Who do you think you are talking to? I am a

grown man just like you and I am on the job just like you.” Sergeant Logan testified that he “took that to mean that he was saying he was a cop.” He told the Respondent, “If you are on the job, I want to see your ID card.” Sergeant Logan testified that he repeated, “If you are on the job, I want to see your ID card. If you are not, you are going to be arrested for impersonating a police officer so think about your decision very carefully.” After “probably” about “30 seconds to a minute” had passed, the Respondent handed Sergeant Logan his Department ID card. Sergeant Logan told him, “Thank you very much. I will be back.” Sergeant Logan put the Department ID card in his pocket and walked away to “close down the parties.”

About five to ten minutes later, Sergeant Logan returned to where he had encountered the Respondent. He was still there but the other men and the women were gone. He told the Respondent, “One, you don’t speak to a supervisor like that. Two, you don’t speak to a police officer like that. Three, you don’t speak to anybody in the public like that.” He then told the Respondent that he would be issuing him a Command Discipline (CD) in the mail because he had more important matters to deal with that night. The Respondent then became “very quiet.” Sergeant Logan testified that before the Respondent identified himself he “was disrespectful to everybody around him,” “very arrogant” and “nasty.”

Sergeant Logan later prepared a CD (DX 1). The “Details of Violation” section of this CD reads as follows:

At t/p/o P.O. Hood did act in a discourteous & disrespectful manner to a uniformed supervisor and also failed to comply with said supervisors instructions in a timely manner. P.O. Hood committed the prior stated infractions as follows: I, Sgt. Logan responded to a large disorderly party at 0530hrs. S/O was observed sitting on his motorcycle with several others. I approached them and told them the party was over and that they were to leave the area. S/O responded by stating “When I am damn good and

ready I'll leave." I requested the group to leave several more times which were met with negative responses. As I was walking away to aid in the dispersal of the crowd, I informed the group that when I return I expect them to be gone, to which the S/O stated "I'm a grown man, who does he think he's talking to, I'm on the same job as him." At which time I approached P.O. Hood and requested his NYPD ID card. P.O. Hood responded by saying "I not giving you sh**." I informed the S/O that if he did not produce his ID card he would be placed under arrest, at which time the S/O produced his Id card.

Sergeant Logan testified that at the time he prepared this CD and forwarded it to the commanding officer of the 90 Precinct for adjudication, he was not aware that the Respondent had filed a complaint against him with the Civilian Complaint Review Board regarding their interaction on September 4, 2006.

On cross-examination, Sergeant Logan confirmed that at the time he encountered the Respondent on September 4, 2006, he was performing overtime and that he had already been working for 12 hours. Sergeant Logan also confirmed that the location where he encountered the Respondent had been a problem location during the previous year when police officers "had to fight" rowdy partygoers. Sergeant Logan acknowledged that he observed no crime taking place when he approached the Respondent and his friends. He also acknowledged that although civilians are required to comply with an order to disperse, to dispute such an order would not constitute a crime. Sergeant Logan testified that when he told the Respondent and his friends, "It's time to go," the Respondent stated, "I'm going to leave when I'm damn good and ready." When Sergeant Logan was asked whether his "bugs to a light" statement on direct examination was reference to "Caribbeans," he responded that it was not and that the term "bugs" referred to females who were drawn to "light," meaning men on motorcycles. Sergeant Logan testified that when the Respondent told him, "I'm a grown man just like you," he did not consider this statement as a reference to race. Sergeant

Logan testified that although he did not utter the phrase “you people” in addressing the Respondent, he did not consider this a racially charged phrase. Sergeant Logan testified that after he told the Respondent to show him his ID card, he did so “within a minute or two.”

Lieutenant John Meier

Lieutenant Meier, a 16-year member who was promoted to lieutenant three years ago and who has been assigned to the 67 Precinct since his promotion, testified that during October, 2006, he was Sergeant Logan’s immediate supervisor. On October 11, 2006, the commanding officer of the 67 Precinct assigned Lieutenant Meier to handle a Complaint Report that had been sent to the Department by the Civilian Complaint Review Board and was forwarded by the Chief of Department to Patrol Borough Brooklyn South which then forwarded it to the commanding officer, 67 Precinct (CX 2). [This Complaint Report lists the “complainant” as “Konata Hood” and the “officer named in complaint” as Sergeant Logan. Nothing contained in this report indicates that Hood is a member of the service. A telephone number listed on the complaint is identified as Hood’s cell phone number].

On October 11, 2006, Lieutenant Meier called Hood’s cell phone number. When a male voice answered the phone, Lieutenant Meier asked if he could speak to “Mr. Hood.” The male asked him, “Who are you?” Lieutenant Meier identified himself by name and rank and stated that he was assigned to the 67 Precinct and that he was Sergeant Logan’s supervisor. The male asked him, “Why are you calling? If you are Sergeant Logan’s supervisor, why are you investigating him?” The male then told him,

“It’s not a good time to talk now.” Lieutenant Meier provided the male with the telephone number of the 67 Precinct and the telephone conversation ended.

At the end of October, 2006, Lieutenant Meier learned for the first time that Hood was a member of the service when Sergeant Logan told him that Hood was a police officer. On November 1, 2006, Lieutenant Meier drafted a Command Discipline charging the Respondent with having failed to identify himself as a member of the service and having been discourteous during their telephone conversation. Lieutenant Meier referred this Command Discipline to the 90 Precinct for adjudication. He did not make any penalty recommendation.

On cross-examination, Lieutenant Meier acknowledged that his allegation in the CD that the Respondent had been discourteous during their telephone conversation was based only on the “tone” the Respondent had used, not on what he had said. Lieutenant Meier also acknowledged that he did not ask anyone at the Civilian Complaint Review Board why this allegation that a sergeant had been discourteous had been referred to the Department for investigation. He stated that the nature of this CCRB referral did not alert him that Hood was a MOS. He also stated that even though Sergeant Logan had told him that he had been involved in an incident with an off duty officer at the West Indian Day Parade, he did not make any connection between the CCRB referral and what Sergeant Logan had told him.

When Lieutenant Meier was asked whether, if he had been in the Respondent’s shoes on October 11, 2006, he would have questioned why the supervisor of the member he had complained about was calling him at home, he agreed that he would have found such a call suspicious and that he would not have provided any information to the caller

until he had been able to confirm that the caller was who he said he was and that is why he provided his work telephone number to the Respondent.

Lieutenant William Gough

Lieutenant Gough, assigned to the Brooklyn North Investigations Unit, testified that he handled the CDs that Sergeant Logan and Lieutenant Meier issued regarding the Respondent and that, after consultations with his superiors, it was determined that Charges & Specifications should be brought regarding these two CDs. Lieutenant Gough testified that Sergeant Logan and Lieutenant Meier had nothing to do with the decision to prepare Charges & Specifications regarding these two CDs. Lieutenant Gough testified that he had no personal knowledge of the interactions between Sergeant Logan and the Respondent or between Lieutenant Meier and the Respondent.

The Respondent's Case

The Respondent testified in his own behalf.

The Respondent

The Respondent testified that on September 4, 2006, he attended a house party, but not a block party, in Brooklyn with friends. At about 5:30 a.m., the Respondent and his friends were outside the house standing next to their motorcycles when Sergeant Logan approached them and told them, "Get on your bikes and leave." Even though no one had protested his order, Sergeant Logan repeated his order and then walked away. The Respondent testified that he and his friends immediately began to "suit up" by

putting on their motorcycle helmets, gloves and other safety equipment. Sergeant Logan soon approached them again and told them, "I asked you to leave and you didn't. I need to see ID or I'm locking somebody up." The Respondent told Sergeant Logan, "We're suiting up getting ready to leave." He did not tell Sergeant Logan, "I'll leave when I am damned good and ready." Sergeant Logan stated, "Show me ID." It took "under a minute" for the Respondent to access his Department ID card, take it out and show it to Sergeant Logan. Sergeant Logan looked at it and said, "925 tax number, figures." The Respondent testified that he interpreted this remark as meaning that "I had a lot less time on the job than him." Sergeant Logan told him, "Your friends can leave but you have to stay."

Sergeant Logan then left him and walked down the block to clear out the party. He did not return for 30 to 40 minutes. Sergeant Logan then told him, "I've been working 12 hours clearing out block parties and barbecues for you people and I don't need to take shit from anybody." The Respondent testified that he interpreted the "you people" remark as "a racial comment" and although it angered him, he did not respond.

Sergeant Logan then gave him back his ID and told him, "Well if you don't like it, I'll take you and your ID to the CO and you'll be suspended on the spot. You can leave." The Respondent testified that he said nothing. After Sergeant Logan walked away, the Respondent told a police officer who was with Sergeant Logan, "I am on the same job as you. I am a grown man just like you."

The Respondent testified that ten days after this incident, he lodged a complaint against Sergeant Logan with the Civilian Complaint Review Board (CCRB) and he informed CCRB that he was a police officer. A CCRB investigator later informed him

that CCRB could not handle his complaint because the incident involved one MOS complaining about another MOS.

The Respondent testified that on October 18, 2006, while he was shopping in a store where cell phone reception is poor, he received a cell phone call from a man who identified himself as "Lieutenant Meier." He was suspicious and did not believe that the man was who he said he was because "normally" he would receive a "notification" from his "command" whenever a supervisor wanted to speak to him. The Respondent did not identify himself as a member of service to the man because he had been trained not to ID himself as an MOS when he had no assurance that the man actually was who he said he was. It was his intention to find out if the man actually was who he said he was and to consult with a union delegate or attorney.

On cross-examination, the Respondent testified that he is black and that the men he was with on September 4, 2006, when Sergeant Logan approached them were black also. The Respondent testified that he is certain that he made no discourteous remarks to Sergeant Logan on September 4, 2006, because he was a supervisor in uniform and that he wanted to avoid saying anything that could get him in trouble.

The Respondent also acknowledged that he received a letter from the office of the Chief of Department dated September 27, 2006, informing him that he would be contacted by a Department investigator regarding his CCRB complaint.

The Respondent also acknowledged that the man who called him on October 18, 2006, provided a telephone number but he never called the telephone number he was given.

FINDINGS AND ANALYSISSpecification Nos. 1 and 2

It is charged that the Respondent, while he was off-duty on September 4, 2006, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by failing to immediately identify himself as a member of the service to Sergeant Logan and by disputing an order issued by Sergeant Logan to disperse, and that the Respondent was discourteous to Sergeant Logan, in that he failed to immediately comply with Sergeant Logan's order to leave the area by stating that he would leave when he was "damn good and ready," and that he did not immediately produce his identification, stating, "I'm not showing you shit."

Initially, the record does not support the allegations that the Respondent failed to immediately identify himself as a member of the service to Sergeant Logan or that he did not immediately produce his identification. Both the Respondent and Sergeant Logan testified that shortly after Sergeant Logan approached the Respondent, he told him that he was "on the job" and both testified that the Respondent produced his identification card less than one minute after being asked to produce it. Sergeant Logan testified on direct examination that within "30 seconds to a minute" after he asked the Respondent to hand him his Department ID card, he did so. However, during cross-examination, Sergeant Logan expanded this time period to up to two minutes. This inconsistency raises questions about the reliability of Sergeant Logan's testimony.

As to the allegations that the Respondent disputed an order issued by Sergeant Logan to disperse and that the Respondent was discourteous to Sergeant Logan, in that he failed to immediately comply with Sergeant Logan's order to leave the area by stating that he would leave when he was "damn good and ready," the only evidence offered by the Department to prove that the Respondent engaged in this misconduct was the testimony of Sergeant Logan.

Sergeant Logan's assertions as to what the Respondent supposedly said to him must be examined in light of Sergeant Logan's testimony regarding his own acknowledged comments and his alleged remarks. Sergeant Logan testified that he viewed the women who were with the Respondent, who is black, and his motorcycle-riding friends, who were also black, as "bugs to light." Also, although Sergeant Logan testified that he never uttered the phrase "you people" in addressing the Respondent, as the Respondent claims he did, Sergeant Logan testified that even if he had called the Respondent and his friends "you people," he would not consider such a remark to be a racial remark.

Finally, in evaluating the reliability and credibility of Sergeant Logan's testimony in this case I cannot ignore the fact that in the companion case that was tried concurrently with this case, the reliability and credibility of Sergeant Logan's testimony regarding another incident that also occurred on September 4, 2006, was brought into question.

Based on the above, the testimony offered by the Department did not meet the Department's burden of presenting credible evidence which proves these charges by a preponderance of the evidence.

The Respondent is found Not Guilty of Specification Nos. 1 and 2.

Specification Nos. 3 and 4

It is charged that the Respondent, on October 18, 2006, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by failing to identify himself as a member of service to Lieutenant Meier, who had telephoned him regarding his CCRB complaint, and that he was discourteous to Lieutenant Meier in that he repeatedly questioned his identity and the validity of his inquiry.

The Respondent acknowledged that he did not identify himself as a member of service to Lieutenant Meier during their telephone conversation on October 18, 2006. The Respondent's claim that he would have identified himself as a member of service if he had received some assurance that Lieutenant Meier actually was who he said he was, is belied by the fact that he never even attempted to call the telephone number Lieutenant Meier provided him. If the Respondent genuinely wanted merely to obtain confirmation that Lieutenant Meier was who he claimed to be, the Respondent could have received that assurance by simply telephoning the number that Lieutenant Meier gave him. I find that the Respondent's failure to call establishes that the Respondent had no intention of telling Lieutenant Meier that he was a member of service. Thus, the Respondent placed his personal interests (his personal suspicions and concerns about being interviewed by the supervisor of the member he had complained about) above his duty to identify himself as a member of service to a lieutenant who had contacted him regarding what the Respondent knew was official Department business.

As a result, the Respondent is found Guilty of Specification No. 3.

With regard to Specification No. 4, the Department's position that the questions the Respondent posed to Lieutenant Meier constituted discourtesy is not supported by the Department's witness. Lieutenant Meier candidly admitted that if their positions had been reversed, he would have questioned why he was being contacted by the supervisor of the member he had complained about.

The Respondent is found Not Guilty of Specification No. 4.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on March 1, 2000. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.


The Respondent has been found Guilty of engaging in conduct prejudicial to the good order, efficiency or discipline of the Department in that he failed to immediately identify himself as a member of service to a lieutenant who telephoned him to discuss a complaint he had filed with the Civilian Complaint Review Board.

In fashioning a penalty recommendation, I have taken into consideration the Respondent's prior disciplinary record.

It is recommended that the Respondent forfeit 20 vacation days.

Respectfully submitted,

APPROVED
MAR 10 2010
RAYMOND W. KELLY
POLICE COMMISSIONER


Robert W. Vinal
Assistant Deputy Commissioner - Trials

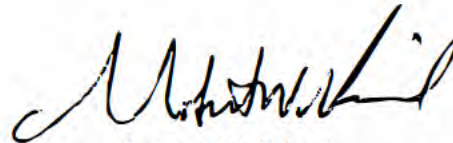
**POLICE DEPARTMENT
CITY OF NEW YORK**

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: **CONFIDENTIAL MEMORANDUM
POLICE OFFICER KONATA HOOD
TAX REGISTRY NO. 925471
DISCIPLINARY CASE NO. 82706/07**

The Respondent received an overall rating of 4.0 on his 2007 annual performance evaluation, 4.0 on his 2006 evaluation, and 2.5 on his 2005 evaluation. [REDACTED]
[REDACTED]. He has been awarded two Excellent Police Duty medals.

He has a prior formal disciplinary record. In 2003, he forfeited 30 vacation days after he was found guilty of engaging in conduct prejudicial to the good order, efficiency or discipline of the Department in that he directed profane and discourteous language at an Assistant District Attorney during an interview.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner - Trials